

## **EXHIBIT D**

Page 1

1                   **\*\*CONFIDENTIAL \*\* CONFIDENTIAL \*\***

2                   **UNITED STATES DISTRICT COURT**

3                   **SOUTHERN DISTRICT OF NEW JERSEY**

4                   **CIVIL ACTION NO.: 2:11-cv-07318-WHW-SCM**

-----x

5                   **JUICE ENTERTAINMENT, LLC, THOMAS DORFMAN,**  
6                   **and CHRIS BARRETT,**

7                   **Plaintiffs,**

8                   **-against-**

9                   **LIVE NATION ENTERTAINMENT, INC.,**

10                   **Defendant.**

11                   -----x  
12                   **December 18, 2013**

13                   **10:06 a.m.**

14  
15                   **DEPOSITION of JOHN D'ESPOSITO,**  
16                   **Nonparty Witness, taken by Plaintiffs, held at**  
17                   **the offices of Greenberg Traurig, 200 Park**  
18                   **Avenue, Florham Park, New Jersey, before Eileen**  
19                   **Mulvenna, CSR/RMR/CRR, Certified Shorthand**  
20                   **Reporter, Registered Merit Reporter, Certified**  
21                   **Realtime Reporter and Notary Public of the State**  
22                   **of New York.**

<p style="text-align: right;">Page 138</p> <p>1 D'Esposito - Confidential      2 A. Al B.      3 Q. I don't know who that is.      4 A. His name is Al B. He's a promoter.      5 Q. Who did he work for?      6 A. Himself. Al B. works for himself.      7 Q. When you say "Tiesto is what Al      8 recognized," what do you mean? Recognized from      9 where?      10 A. I don't know. Al -- I don't know      11 these names. Al is the only name they      12 recognize -- Al tells me -- Al says a name and      13 that's a good artist you should get. Al B. is      14 our street promoter, hands out fliers.      15 I have no idea about anything to do      16 with electronic dancers at this time in my life.      17 I have no idea, zero. Braille.      18 Q. And when Jason Miller writes back      19 to you a minute later, same day, and says,      20 "I would imagine they are holding Tiesto with      21 Al," do you think he's referring to the same Al      22 that you thought you were referring to?      23 A. No.      24 MR. MARX: Object to the form of      25 the question.</p>	<p style="text-align: right;">Page 140</p> <p>1 D'Esposito - Confidential      2 A. Al B., yeah, I always have a      3 discussion. I don't know electronic dance      4 music. So he used sources to figure it out, if      5 it's worth taking a risk.      6 Q. When you said --      7 A. Al Dorso wouldn't know electron      8 music either. We were both in the same pond on      9 this one.      10 Q. But when you say "they are      11 holding," were you referring to Al -- were you      12 referring to --      13 A. William Morris or whoever was      14 holding.      15 Q. For what venue, for what show?      16 A. I don't know.      17 Q. Well, are you saying you don't know      18 now or you didn't know --      19 A. It could be Asbury Park. I don't      20 know. I don't know what's going on with this      21 situation.      22 Q. You wrote the e-mail. What I'm      23 trying to ask you is, what did you mean when you      24 sent the e-mail? Do you recall today what you      25 meant --</p>
<p style="text-align: right;">Page 139</p> <p>1 D'Esposito - Confidential      2 THE WITNESS: I think he has a      3 mistake on that.      4 BY MR. SIEGEL:      5 Q. Well, I'll ask him about it, but --      6 my question is -- this e-mail was sent to you.      7 Did you understand that he was talking about the      8 same Al that you were talking about?      9 A. Probably not. There was a lot of      10 people in this situation. I don't know Al B.      11 from Tommy D. from Mel Ski, who is another      12 promoter. I'm surprised his name hasn't come up      13 yet.      14 Q. In the e-mail that you wrote, you      15 said "Tiesto was what Al recognized."      16 That -- to me when I read that, it      17 seems like he was shown a list and he recognized      18 the name off the list.      19 A. Yeah.      20 Q. Is this something -- is this a      21 discussion or an exchange that you had with Al?      22 I mean, did you show him a list?      23 A. Al who?      24 Q. Al B., the one you're referring to      25 in your e-mail.</p>	<p style="text-align: right;">Page 141</p> <p>1 D'Esposito - Confidential      2 A. No.      3 Q. -- when you sent that e-mail?      4 A. No, that was so long ago. Oh, my      5 God.      6 (D'Esposito Exhibit 11, Bates Nos.      7 LN0001697 through 98, E-mail Chain, marked      8 for identification.)      9 BY MR. SIEGEL:      10 Q. I'm showing you what's been marked      11 as Exhibit No. 11. This is a series of e-mails.      12 Again it contains the long e-mail from      13 Mr. Miller to Joel Zimmerman and Samantha Kirby      14 from February 15, 2011, that we looked at a      15 moment ago.      16 He apparently forwards it to you,      17 says, "FYI." Then you respond, "Good e-mail. I      18 need a shortened and money unpaid, trouble      19 collecting e-mail to send to Al to make this      20 swinged back."      21 A. Uh-huh.      22 Q. What did you mean when you said      23 that?      24 A. I needed to get my production in to      25 host Big Time Rush. So I needed to swing back</p>

<p style="text-align: right;">Page 142</p> <p>1 D'Esposito - Confidential      2 that I had the right staging from Mountain      3 staging. And they had unpaid bills from these      4 other shows, I guess, that would hurt my ability      5 to bring in the production that I need for Big      6 Time Rush at the State Fair, potentially, or at      7 the IZOD or at Six Flags, where it ended up      8 playing.      9 These guys were in the middle of      10 our production, and they had no competency or      11 ability to produce a show. And I was being      12 asked to put my band in their hands, and that      13 wasn't happening.      14 So I wanted to swing it back so I      15 could produce Big Time Rush the way the band      16 expected and the way the agent and the company,      17 Nickelodeon, wanted that show produced.      18 Q. When you say "these guys" were in      19 the middle of your production, who are you      20 referring to?      21 A. The guys that Al introduced us to.      22 This one dude, John, who had no idea what a      23 SAM-550 stage was. He didn't even know what it      24 was.      25 Q. What is it?</p>	<p style="text-align: right;">Page 144</p> <p>1 D'Esposito - Confidential      2      3 Q. For Bamboozle or Big Time Rush?      4 A. Big Time Rush.      5 Q. And that would have been before the      6 State Fair?      7 A. It would have been during the State      8 Fair, at the time that they were -- that your      9 clients had this arrangement. I don't even know      10 what it was for. I wanted to use the site for      11 Big Time Rush. We were either going to play      12 State Fair or we were going to play Six Flags.      13 So we chose Six Flags because these      14 guys had no ability to produce a show. They had      15 no technical information. They had no      16 experience. They had no real support system in      17 place. So it was a disaster. Al set us up for      18 a disaster, but he wanted the show.      19 Q. This is in February of 2011.      20 A. Uh-huh.      21 Q. And we're talking about concerts      22 that would have taken place at the State Fair,      23 which is in June and July; correct?      24 A. Yes.      25 Q. So how did you know in February of</p>
<p style="text-align: right;">Page 143</p> <p>1 D'Esposito - Confidential      2 A. He's the only one I talked to from      3 that group. I don't even think his name was      4 mentioned earlier.      5 Q. So you're asking for an e-mail -- a      6 shortened version of the e-mail that's set out      7 here?      8 A. Yes.      9 Q. Who did you want to send it to?      10 A. What do you mean?      11 Q. You say "I need" --      12 A. I wanted to send it to Al so I      13 could show I needed to use my production for my      14 show.      15 Q. Al Dorso?      16 A. Yes. I wasn't putting my band on      17 their production. They didn't even have      18 production. They couldn't even tell you the      19 name of the lighting company, the sound company.      20 Q. What event are you talking about?      21 Are you saying that there was an event that was      22 under discussion that somebody wanted you --      23 A. They had contact at the State Fair,      24 your clients did. I was told by Al Dorso to go      25 contact them to use their resources for my show.</p>	<p style="text-align: right;">Page 145</p> <p>1 D'Esposito - Confidential      2 2011 that it was a disaster and couldn't have      3 been done?      4 A. Because I asked them what kind of      5 production they were using, what did they plan      6 on doing. They're the producers. They own the      7 venue now -- or they own the production. I had      8 to use their resources. I needed to know. It's      9 what a renter would do. I want --      10 Q. You needed to know that in February      11 why?      12 A. Because you plan a tour months and      13 months and months in advance.      14 Q. Even though earlier you testified      15 you could make it happen in six seconds.      16 A. You can make it happen in six      17 seconds.      18 Q. Right.      19 A. If I wanted Justin Bieber to jump      20 on stage with Selena Gomez and he was standing      21 next to me, I could ask him to go on stage in      22 six seconds and he would.      23 Q. So Al Dorso was asking you --      24 A. No, he was telling us.      25 Q. He was telling you that your Big</p>

<p style="text-align: right;">Page 146</p> <p>1 D'Esposito - Confidential</p> <p>2 Time Rush show that you wanted to produce -- or</p> <p>3 promote had to be done in conjunction with my</p> <p>4 clients?</p> <p>5 A. Yes.</p> <p>6 Q. And do you know what day -- my</p> <p>7 clients were primarily planning an electronic</p> <p>8 dance event for the first weekend of the State</p> <p>9 Fair in 2011. When would Big Time Rush --</p> <p>10 A. They had a music exclusive on the</p> <p>11 festival -- on the fair to all music.</p> <p>12 Q. So if you -- but did you -- would</p> <p>13 this have been the same time that you produced</p> <p>14 Big Time Rush at that venue the prior year?</p> <p>15 A. From what?</p> <p>16 Q. Well, you put on Big Time Rush</p> <p>17 shows more than one year; correct?</p> <p>18 A. Yes.</p> <p>19 Q. And was it always in June or July</p> <p>20 of the summer?</p> <p>21 A. Usually.</p> <p>22 Q. And before --</p> <p>23 A. Or August.</p> <p>24 Q. Before 2011, for how many years had</p> <p>25 you done it? Do you know?</p>	<p style="text-align: right;">Page 148</p> <p>1 D'Esposito - Confidential</p> <p>2 to explain to the agent. Did he stiff the</p> <p>3 artist?"</p> <p>4 When you say you need to explain to</p> <p>5 the agent, what were you referring to there?</p> <p>6 A. Jonathan Peters, through a mutual</p> <p>7 friend, wanted to play at Convention Hall again.</p> <p>8 I didn't want to do the show.</p> <p>9 Q. So you're referring to Jonathan</p> <p>10 Peters' agent there?</p> <p>11 A. Yes.</p> <p>12 Q. What I'm trying to understand is,</p> <p>13 why Tommy D. would have been relevant to this</p> <p>14 discussion. You say -- I think you testified</p> <p>15 earlier that you had the ability to book talent</p> <p>16 for the Asbury Park venue, the Convention Hall.</p> <p>17 If you wanted Jonathan Peters to</p> <p>18 appear at the Convention Hall, couldn't you have</p> <p>19 simply done that without Tommy D.'s involvement?</p> <p>20 A. I'm not an EDM promoter.</p> <p>21 Q. You're not an EDM promoter?</p> <p>22 A. No.</p> <p>23 Q. So your understanding was that if</p> <p>24 Peters was going to appear at that venue again,</p> <p>25 somehow Tommy D. would need to be involved?</p>
<p style="text-align: right;">Page 147</p> <p>1 D'Esposito - Confidential</p> <p>2 A. I don't remember.</p> <p>3 Q. But it's something that you had</p> <p>4 done repeatedly. And so the summer of 2011 was</p> <p>5 coming up and Mr. Dorso asked you to --</p> <p>6 A. Didn't ask.</p> <p>7 Q. -- he told you to cooperate with --</p> <p>8 A. Yes. That's why you're completely</p> <p>9 off with what you're going for here. You're</p> <p>10 fishing for Big Time Rush. You have it. I</p> <p>11 don't know anything about EDM Festival. I don't</p> <p>12 care about it. And I don't know anything about</p> <p>13 it. I don't know any of this. So this is a</p> <p>14 waste of time. I've said that many times.</p> <p>15 (D'Esposito Exhibit 12, Bates Nos.</p> <p>16 LN0001012 through 13, E-Mail Chain, marked</p> <p>17 for identification.)</p> <p>18 BY MR. SIEGEL:</p> <p>19 Q. This is Exhibit No. 12. It's a</p> <p>20 series of e-mails between you and Chris Femiano</p> <p>21 from February 23, 2011. And you're talking</p> <p>22 about -- it appears you're talking about the</p> <p>23 Jonathan Peters show in Asbury Park that you</p> <p>24 referred to earlier. You tell Mr. Femiano --</p> <p>25 you ask him, "What did Tommy do again? I need</p>	<p style="text-align: right;">Page 149</p> <p>1 D'Esposito - Confidential</p> <p>2 A. An EDM promoter would need to be</p> <p>3 involved. It's not my specialty.</p> <p>4 Q. So why did you need to explain to</p> <p>5 the agent what you think happened with Tommy on</p> <p>6 the prior show?</p> <p>7 A. Because there's concerns about the</p> <p>8 venue. That's why Chris says in there he didn't</p> <p>9 play Convention Hall. There was a lot of</p> <p>10 confusion. Jonathan thought he was playing</p> <p>11 Convention Hall. He went down there and he was</p> <p>12 playing the beach bar. He was lied to. He</p> <p>13 wasn't paid. It was a big disaster.</p> <p>14 He saw a great crowd there for him,</p> <p>15 but he didn't want to play because he didn't</p> <p>16 have the production. So he left and wanted his</p> <p>17 money. Got in a fight. They left.</p> <p>18 Year later, I guess, or whatever,</p> <p>19 he comes back, Can we do that again?</p> <p>20 I don't want any part of it. I'm</p> <p>21 asking the venue, Is Tommy D. still there?</p> <p>22 I don't know what's going on. It's</p> <p>23 not my expertise. But at this point, John</p> <p>24 DiMatteo would be a better buyer than me.</p> <p>25 MR. SIEGEL: I am pressing forward</p>

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1	ERRATA SHEET
2	VERITEXT/NEW YORK REPORTING, INC.
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4	
5	NAME OF CASE: JUICE V. LIVE NATION
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6	NAME OF DEPONENT: JOHN D'ESPOSITO
7	
8	PAGE LINE(S) CHANGE REASON
9	_____
10	_____
11	_____
12	_____
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14	_____
15	_____
16	_____
17	_____
18	_____
19	
20	
21	JOHN D'ESPOSITO
22	Subscribed and sworn to before me
23	this _____ day of _____, 2014.
24	
25	(NOTARY PUBLIC) MY COMMISSION EXPIRES:
	Page 195
1	
2	STATE OF NEW YORK )
3	ss:
4	COUNTY OF NEW YORK )
5	
6	I, Eileen Mulvenna, Notary Public
7	within and for the State of New York, do hereby
8	certify:
9	
10	That I reported the proceedings in
11	the within entitled matter, and that the within
12	transcript is a true record of said proceedings.
13	
14	
15	I further certify that I am not
16	related to any of the parties to the action by
17	blood or marriage, and that I am in no way
18	interested in the outcome of this matter.
19	
20	IN WITNESS WHEREOF, I have hereunto
21	set my hand this 3rd day of January, 2014.
22	
23	
24	Eileen Mulvenna, CSR/RMR
25	

50 (Pages 194 - 195)

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